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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by the Organisation Internationale pour le Droit à l'éducation et la liberté d'enseignement (OIDEL), Association Points-Coeur, Associazione Comunita Papa Giovanni XXIII, Catholic International Education Office (OIEC), Congregation of Our Lady of Charity of the Good Shepherd, Dominicans for Justice and Peace - Order of Preachers, International Catholic Child Bureau (BICE), Istituto Internazionale Maria Ausiliatrice delle Salesiane di Don Bosco, Organisation pour la Communication en Afrique et de Promotion de la Coopération Economique Internationale (OCAPROCE Internationale) and Women's Board Educational Cooperation Society, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Regulating private providers in education and safeguarding education as a public good*

We welcome the report of the Special Rapporteur which highlights repercussions on principles of social justice and equity of rampant privatization, principally in the developing countries. Indeed, education as a sector is increasingly opened up to profit –making and trade, making it an attractive business. It is obvious that such a quasi market phenomenon is contrary to international law, and that it undermines the right to education, both as entitlement and as empowerment.

We want to emphazise the pertinence of the distinction made by the Special Rapporteur regarding the providers of "for-profit education" that are distinct from other non-state actors, such as religious institutions, non-governmental organizations, community-based groups, foundations and trusts. The Special Rapporteur commands the work of these providers and active engagement in upholding the right to education.

We also want to highlight the recall made by Mr Singh of the role of the State in particular article 13 (3 and 4) of the International Covenant on Economic, Social and Cultural Rights which is not unfettered. This Article stipulates the "Liberty of parents and guardians to ensure religious and moral education of their children in conformity with their own convictions" and "the liberty of individuals and bodies to establish and direct educational institutions". Such freedom of education is subject to "minimum educational standards" and the State is primarily responsible in case of privatization. "Only the State can pull together all the components into a coherent but flexible education system". In fact, instead of leading to extreme disparities of educational opportunity for some groups in society, as is the danger when non-state providers are transforming education into an attractive business, privatization should "give full effect to the right to education by, promoting equality of opportunity in education in accordance with their human rights obligations". The Special Rapporteur also mentions in page 16 of his report that the "provision of alternative schools for linguistic, cultural or religious reasons in line with article 13 of the ICESCR has a recognized place in education systems and is important in maintaining diversity and protecting minorities within countries".

Regarding discrimination, we would like to recall the UNESCO Convention against Discrimination in Education and cite its Article 2:

When permitted in a State, the following situations shall not be deemed to constitute discrimination, within the meaning of Article 1 of this Convention:

(c) The establishment or maintenance of private educational institutions, if the object of the institutions is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities, if the institutions are conducted in accordance with that object, and if the education provided conforms with such standards as may be laid down or approved by the competent authorities, in particular for education of the same level. We welcome section VII of M. Singh's report as it stresses that public policies can foster communities and NGOs to construct or establish schools for basic education, these playing a meaningful and complementary role for the realization of the right to education. The Spanish example of "conciertos economicos" is very telling in this regard. There are many examples in Europe of good relationships between civil society and the State, in countries like Belgium, Denmark or The Netherlands. Such good practices merit attention, especially since they could also be transferable to other education systems.

Free basic education and quality education is the core obligation of States with regard to the right to education and we welcome the view of the Special Rapporteur, which is to recommend that the concept of education as a public good be enshrined in national legal system. The need for State policy in this sphere, based on a humanistic nature of education, giving primacy to common human rights value, is also a significant assertion from the part of the Special Rapporteur. We thank the Special Rapporteur for stating strongly the public accountability of privatized schools and that availability of remedies and recourse from their decisions should be clearly provided for by law. Justiciability of the right to education goes as far as it is no longer respected as a common good.

We want to insist on the fact that privatization comes from a failure from the State, not only for economic reasons. Instead of considering education as a fundamental human right of the person, some States tend to consider education as an instrument for building a state nation. That is what the UNDP Human Development Report 2004 denounced when it talked about the educational system understood as "Construction of a nationalized system of compulsory education promoting standardized curricula and teaching the dominant group's language, literature and history".

For our organizations, the best education model would be the one of Article 5 of the Universal Declaration on Cultural Diversity: All persons should be entitled to quality education and training that fully respects their cultural identity.

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* The UNESCO Chair of the University of Bergamo, the UNESCO Chair of University of La Rioja, and the Collège Universitaire Henry Dunant, institutions/NGOs without consultative status, also share the views expressed in this statement.